

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BENNY WILLIS,

Plaintiff,

V.

CITY OF CLEVELAND, et al.,

Defendants.

Case No. 1:04cv1807

JUDGE KATHLEEN O'MALLEY

ORDER

On March 6, 2007, the Court referred this matter to Magistrate Judge Nancy A. Vecchiarelli to conduct mediation and for oversight of all non-dispositive pretrial matters, including discovery. (Doc. 90). On June 15, 2007, the Magistrate Judge issued two Reports and Recommendations (“R&Rs”). (Docs. 107, 108). In the first R&R, the Magistrate Judge recommends that the claims of Plaintiff Benny Willis (“Willis”) be dismissed with prejudice for failure to prosecute because of Willis’ repeated refusal to comply with Court orders, failure to take advantage of the ample opportunity to comply that he was given, and failure to offer any explanation for his repeated violations of Court orders and discovery obligations.¹ (Doc. 107). In the second R&R, the Magistrate Judge recommends that the counterclaims of Defendants Anthony Perkins and Diane

¹ In addition, at a hearing for Willis to show cause why his claims should not be dismissed with prejudice, a hearing at which Willis failed to appear, Defendants jointly made an oral motion for dismissal of Willis' claims with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Green Perkins be dismissed with prejudice based on their own request to do so if the Court dismisses Plaintiff's claims with prejudice. (Docs. 106, 108). Neither Willis nor any other party has filed objections to the Magistrate Judge's R&Rs, and the time for objections has expired.

For the reasons stated in the Magistrate Judge's R&Rs, the Court finds that dismissal of Willis' claims and the Perkinses' counterclaims with prejudice is appropriate in this case. Accordingly, the Court **ADOPTS** the R&Rs, **DISMISSES** Willis' claims with prejudice, **GRANTS** the Perkinses' *Motion to Dismiss Counterclaims* (Doc. 106), and thereby **DISMISSES** the Perkinses' counterclaims with prejudice. This case is, therefore **DISMISSED**.²

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: July 5, 2007

² All pending motions (Docs. 100, 105, 110, and 111) are hereby **TERMED** as moot. To the extent that Willis' only pending motion (Doc. 105) is not rendered moot by this Order, it is **DENIED**.